

Appl. No. 10/766,097  
Amendment dated February 14, 2005  
Reply to Office Action mailed August 12, 2004

### **REMARKS/ARGUMENTS**

Reconsideration of the subject application, as amended, is respectfully requested.

The claims of the subject application are directed to a countermeasure system and method for protecting aircraft from missile attack. For example, in claim 1, the system comprises a dispenser mounted on an aircraft and configured to dispense a substance into an area within an attack envelope of said aircraft, said substance emitting radiation in a first wavelength band when excited by incident radiation in a second wavelength band; and at least one exciter configured to generate illuminating radiation in said second wavelength band, and to direct said illuminating radiation toward said area.

Claims 1-54 are pending in the subject application. The independent claims are 1, 21, 25, 34, 40, 42 and 49.

#### **Official Action**

The Examiner has rejected claims 1-54 under 35 U.S.C. 103(a) as obvious over US Statutory Invention Registration H1522 to Campillo et al. in view of any one of Published US Patent Application 10/139,005 (Publication No. 2003/0205126 to O'Neill, USP 6,738,012 to Kirkpatrick, or USP 5,680,135 to Bannasch et al. The Examiner asserts that Campillo teaches all of the claim language except "the defense system being used to defend an aircraft." The Examiner points to Kirkpatrick, O'Neill or Bannasch et al. for teaching that it is well known to use infrared defense systems to protect aircraft from missile attack.

The Examiner's rejection is respectfully traversed. It is respectfully submitted that one skilled in the art would not be motivated to make the combinations asserted by the Examiner because of the ship-oriented nature of Campillo et al. That is, unlike the claimed invention which is directed to protecting aircraft, which are fast moving and have a particular thermal, spatial

Appl. No. 10/766,097  
Amendment dated February 14, 2005  
Reply to Office Action mailed August 12, 2004


and other characteristics, the ship-oriented system disclosed in Campillo et al. is directed to protecting ships which are slower moving and have different thermal, spatial and other characteristics. Therefore, it is respectfully submitted that such disparities in the objects being protected would dissuade one skilled in the art from attempting to combine the ship-oriented teachings of Campillo et al. with the aircraft oriented teachings of O'Neill, Kirkpatrick, or a Bannasch et al. Furthermore, it is respectfully submitted that because of the difference in the characteristics of the objects being protected, it is not clear that the system of Campillo et al. could be modified for use in protecting aircraft without undue experimentation, even if the combinations asserted by the Examiner were attempted.

It is for the foregoing reasons that it is respectfully submitted that the claimed invention is patentable and allowable over the cited references, and the Examiner's indication to that end is respectfully solicited.

Respectfully submitted,

DLA PIPER RUDNICK GRAY CARY US LLP

Dated: 2-14-05

By   
Andrew V. Smith  
Reg. No. 43,132

DLA PIPER RUDNICK GRAY CARY US LLP  
153 Townsend Street, Suite 800  
San Francisco, CA 94107  
Telephone: 415-836-2522  
Facsimile: 415-836-2501

Customer No.: 29585